THE EVOLUTION OF ONTARIO'S EARLY URBAN LAND USE PLANNING REGULATIONS, 1900 – 1920

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INTRODUCTION

In the first two decades of this century, the Province of Ontario enacted legislation which, for the first time, permitted municipalities to engage in urban land use planning activities.

Prior to the turn of the century, municipal regulation of urban development was limited to a number of fairly specific nuisance, public health, and building bylaws. These generally applied only to individual buildings, not to the development or redevelopment of urban land nor to the regulation of different land use categories. Landowners were virtually free to build what they wanted, where they wanted. The dynamics of the land market by itself provided the governing logic to the urban development process.

By 1912 Ontario had adopted enabling legislation permitting the larger municipalities in the province to regulate some aspects of development in residential areas, an early form of zoning, and to regulate some aspects of the subdivision of suburban land, an early form of subdivision control. A few years later, in 1917, the Ontario Legislature adopted more general planning legislation, the Planning and Development Act.

Though this early enabling legislation satisfied some municipal and civic leaders, the early town planning movement in the province was disappointed with its limited scope, but was completely unsuccessful in having broader enabling legislation adopted.

This paper reviews the origin and evolution of the earliest urban land use planning enabling legislation adopted by the Province of Ontario. It focuses on the three key planning-related statutes adopted prior to 1920: the amendments to the Municipal Act permitting municipal adoption of development restrictions in residential districts; the first planning act, the 1912 City and Suburbs Plans Act; and the slightly broader planning statute adopted in 1917, the Planning and Development Act. A detailed examination of the factors leading to the adoption of this enabling legislation provides insight into the social and political dynamics which influenced the specific approach to urban planning during this period.

Paralleling this review is a consideration of how far Ontario's largest municipality, Toronto, implemented the enabling legislation; though limited to only this one city, it is helpful in identifying the extent to which the provincial legislation was practical and able to be implemented. Early planning legislation adopted in other provinces during the same period was generally not implemented. It is important to make this distinction because there has always been a large gap between what the planning movement advocated and what was actually put into effect. In some cases legislation is adopted to pacify special interests even though there is no intention of implementing it or is even no actual need for it. Toronto's

urban planning activity is also important for understanding the evolution of the provincial legislation because municipal interests in Toronto often provided the initiative to the provincial legislation.

The first section summarizes the land use planning regulations, both provincial legislation and Toronto municipal bylaws, which were in place at the turn of the century. The following three sections review the evolution of each of the three major planning-related statutes adopted between 1900 and 1920 and the extent to which Toronto made use of them: the zoning amendments to the Municipal Act; the 1912 City and Suburbs Plans Act; and the 1917 Planning and Development Act.

I. LAND USE PLANNING REGULATIONS PRIOR TO 1900

Adoption and implementation of urban land use planning and zoning regulations occurred only after the turn of the century. A review of Ontario's statutes, codified in 1897, and the municipal bylaws of Ontario's largest city, Toronto, which were codified in 1904, indicates that the only urban development regulations in effect at the time related to the construction and maintenance of individual structures and to a number of specific public health nuisances.

1A. Provincial Legislation

In the 1897 Revised Statutes of Ontario the Municipal Act and the Public Health Act were the only statutes containing provisions relating to public regulation of urban development. The Municipal Act provided municipalities with two basic types of authority having some impact on urban development: 1) regulation of the construction of new buildings, and 2) control over certain specified public nuisances. The first allowed some very specific and limited authority over the way buildings were constructed. Municipal authorities could inspect and regulate the more obvious public safety features of buildings and their construction. This included the adequacy of the scaffolding, hoists and elevators, the size and number of doors, stairwells and corridors, and the size and strength of walls and support beams; a municipality could also outlaw wood structures in any part of the city. All builders were required to submit for municipal inspection the plan of a proposed building and the ground or block plan of a building. A municipality could prohibit "the erection or occupation of dwellings on narrow streets, lanes, alleys or in crowded or unsanitary districts."[1] This was as close as the Act came to providing some measure of land use planning authority. These few provisions were scattered throughout the Municipal Act and were not consolidated into any general authority; furthermore, municipal implementation was discretionary, not mandatory.

The second type of authority provided in the Municipal Act, control over certain specified public nuisances, provided a partial form of zoning authority. Section 586 was concerned with nuisances and gave municipalities the authority to define districts within which certain specified trades could not be carried on. In 1897 these included slaughter houses, gas works, tanneries, distilleries, rag, bone and junk shops and "other manufactories or trades which may prove to be nuisances."[2] This was as close as the Act came to providing what are today known as zoning powers. The rest of the section simply regulated such potential nuisances as smoke, the keeping of certain animals, the ringing of bells or causing other unusual noises "calculated to disturb the inhabitants." Over the years, as

conditions and technologies changed, the list of specified nuisances grew longer and the authority to exclude certain uses from districts of a city was also expanded.

The only other provincial statute with any direct provisions relating to urban development was the Public Health Act. First enacted in 1873 as a result of periodic cholera outbreaks, the Ontario Public Health Act as of 1897 provided municipalities with some additional authority to regulate land uses to the extent any use presented a potential public health hazard.[3]

The Act had a large section on nuisances, providing for the inspection of slaughter houses, regulation of ice supplies, restriction of offensive trades, disposal of refuse and the examination of houses and buildings by medical officials. Section 65 of the Act made it the duty of the local board of health to inspect the districts within its jurisdiction for detection of public health nuisances "in order to prevent the accumulation within the district of any dirt, filth, or other thing which may endanger the public health."[4] The only other section having relevance to urban development was Section 72 which allowed a municipality to prohibit any "noxious or offensive trade, business, manufacture, or such as may become offensive" and gave as examples blood letting, soap boiling, tallow melting and the slaughtering of animals. This, however, was as far as the Public Health Act went in terms of having some impact on the nature and form of urban development.

1B. Toronto's Municipal Bylaws

By 1904, Toronto's municipal government was seventy years old. Over the years the City had adopted some 4,400 bylaws relating to many aspects of municipal administration and daily life in the city. Since the city exists as a place to do business and as a place to live, most municipal bylaws were aimed at supporting these ends without interfering too greatly in either. Urban development in general, the construction of most buildings and the opening up of new streets, was carried out by the private sector. Bylaws having some impact on urban development appeared gradually in order to cope with some threat to overall public health or welfare. In addition, the City took on tasks which private individuals or firms were not willing or able to undertake. By 1904, the City was providing water, sewer, street paving, fire and police services together with a wide range of laws regulating public conduct and public health matters. The extent to which urban development was regulated was still very limited by 1904, as is indicated by reviewing the municipal bylaws which were codified in that year.

The most lengthy and detailed bylaw in 1904 was the building bylaw: "A

Bylaw for regulating the erection, and to provide for the safety of Buildings." It was the only bylaw to have some impact on urban form. The "Bylaw respecting Streets," for example, contained nothing that would affect urban form. The bylaw in no way regulated the location or width of streets but rather the use and cleaning of streets. It did require all telephone and telegraph poles to be authorized by a resolution of City Council, but this relatively insignificant measure was aimed only at controlling the blight caused by the poles. The "Bylaw relating to Public Health" primarily regulated such things as contagious diseases, food and water purity, keeping of animals, privies and so on. It did regulate conditions in slaughter houses but not their location. In authorizing the inspection of buildings for public health violations, the bylaw did not in any way regulate the construction, location or nature of buildings themselves.[5]

Only the building bylaw, therefore, had any potential impact on urban form. Even then, only a small part of it did anything more than regulate the construction and technical details of individual buildings. Most of it regulated such things as excavations, foundations, walls, chimneys, wood beams, floor and roof loads, stairs, fire escapes, party walls in dwellings, elevators, furnaces and so on. However, several sections of the bylaw did go beyond these types of concerns, affecting to some extent the types of buildings which could be built in different parts of the city.

The bylaw established fire limits for the city, dividing Toronto into four districts. In District A, which was the downtown area, no wooden structures of any kind could be built and roofs, except for those of one or two storey houses, had to be constructed of fireproof material. In District B, which surrounded the downtown area, small wood stables and additions to houses were permitted, otherwise all structures had to be fireproof throughout. In District C frame structures, other than houses, were permitted as long as they did not exceed 1,500 square feet and were covered with a veneer of brick or some other material. In District D, any type of frame structure could be built, provided the outside walls were covered with corrugated iron or some other metal. The various designations were intermingled to some extent because ratepayers in any area could obtain a specific designation of their choice as long as two thirds of the ratepayers in the area affected agreed.

What this system of fire districts achieved was the separation of the quality of construction of buildings into distinct areas of the city. The central core was limited to fully fireproof buildings while most of the city, excluding District D, had to have buildings which were at least covered with brick or stone. Thus, all houses in Districts A, B, and C had to be either brick or stone. Wood frame dwellings were simply not allowed by 1904. However, the bylaw still did not contain any provisions for minimum space between buildings, setbacks or any other measures affecting the siting or location of the specific buildings on the lot.

Another section of the bylaw regulated the height of various types of buildings. The general height limit restricted a building's height to a formula based on its shortest length at its base. A building with a skeleton frame could be built up to a height of five times the length of its shortest dimension. A building with only masonry walls but no skeleton frame, four times; a building of mill construction, three times; and frame buildings, one and a half times. In addition to this basic height limit, other restrictions applied in certain cases. All buildings over 70 feet, all apartments, tenements and hotels over 50 feet, and all institutional buildings over 50 feet had to be built of fireproof material with a skeleton frame. All buildings over 100 feet high had to obtain special permission from the Inspector of Buildings and had to provide a range of special fire protection equipment. Wood frame buildings used for dwellings could not exceed 35 feet in height. Other than these restrictions, any type of building could be constructed as long as it complied with the restrictions set out for the four categories of fire district.

The only other building restriction which in some way affected urban form applied to residential structures. No dwelling could be built on a street which was less than 30 feet wide and all dwellings had to have at least ten percent of the lot left as open space. This ten percent could not be less than 300 square feet.

To ensure that all the requirements of the building bylaw were adhered to, a building permit had to be obtained from the Property Commissioner. The bylaw stated: "The erection or alteration of any building or part of any building, or any platform, staging or flooring to be used for standing and sitting purposes, must not be commenced ... until a permit ... shall first be obtained." The requirement for first obtaining a permit was introduced in 1882; "drawings and specifications sufficient to enable the Inspector of Buildings to obtain full and complete information as to the extent and character of work to be done must be submitted." The permit would be granted only after the Property Commissioner was satisfied that the work to be done was "in all respects in accordance with the provisions of this bylaw." And furthermore, the Inspector of Buildings was permitted to inspect any building under construction or alteration or "any building which has been reported to him which he has reason to believe is in a dangerous or defected condition in regard to construction."

Other than the few cases outlined above, Toronto's Building Bylaw, as of 1904, did not contain any significant measures affecting private land use and urban development decisions.

2. EARLY ZONING REGULATIONS: 1904 AND 1912 MUNICIPAL ACT AMENDMENTS

The unprecedented rate of industrialization, urbanization and immigration taking place in Canada during the fifteen years prior to World War I increasingly forced the issue of urban planning onto the public agenda. Between 1901 and 1911 Canada's population grew by 1.9 million, most of the increase taking place in urban areas. During this ten-year period, the ten largest cities, not counting their suburbs, gained 650,000 people.[6] Canada's urban population increased by 62 per cent; by 1911 there were ninety cities with populations over 5,000 whereas in 1901 there had been fifty- eight. In Ontario the rural population during these ten years declined by 50,000 while the urban population increased by about 400,000. By the 1911 census a majority of Ontario's population was, for the first time, urban (see Table 1).

The cities in which this expanding urban population settled were growing rapidly without any significant land use planning regulation. The national index of urban building activity climbed from 55 in 1896 and peaked in 1912 at 1,106 (1900=100; see Figure 1). The 1912 peak in urban construction activity was not surpassed until well after World War II. Even though a great deal of housing was being built, the quality was generally quite poor and the quantity could not keep pace with demand. The quantity of housing being built placed severe financial hardships on municipalities.

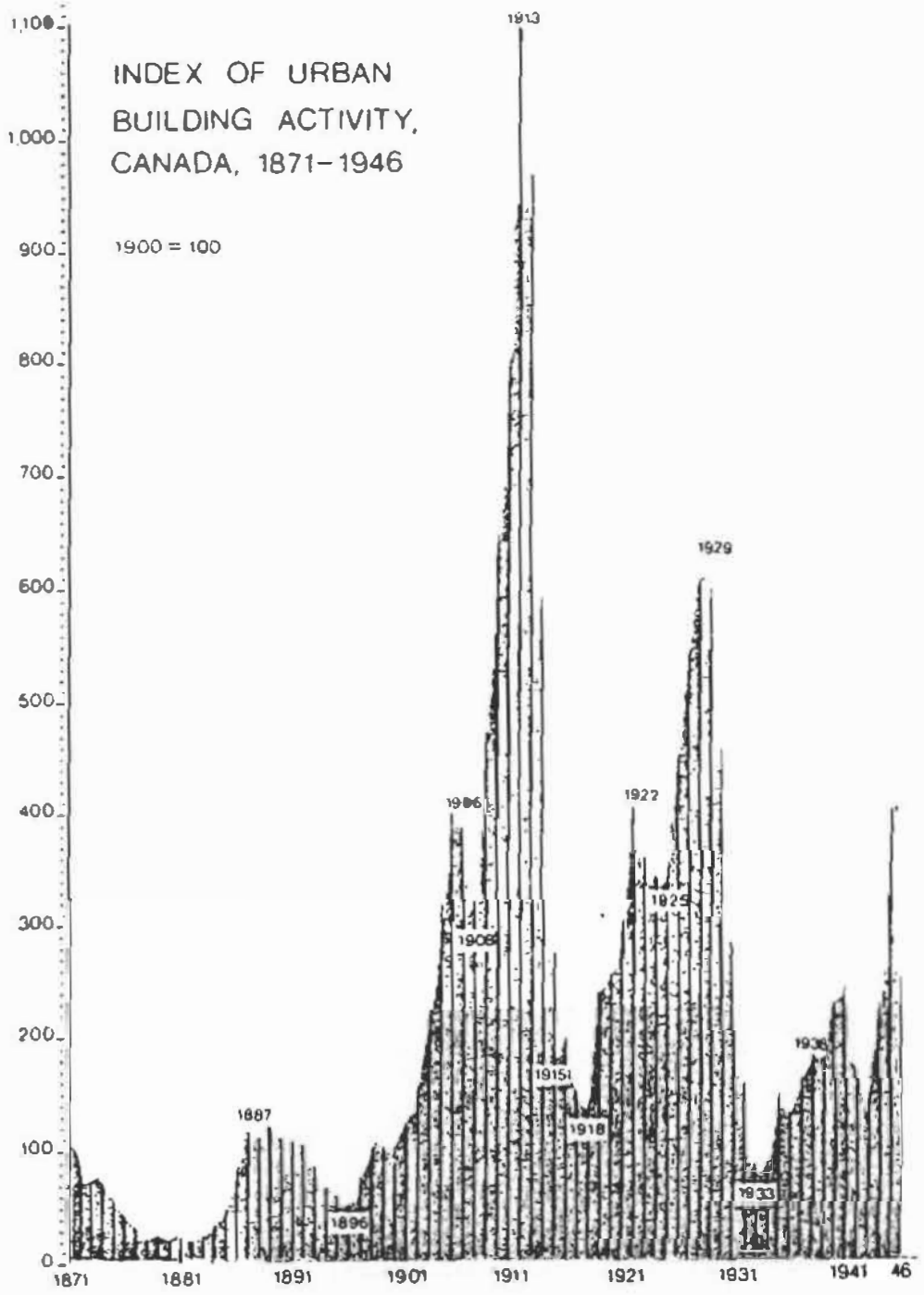
TABLE 1

Urban and Rural Population, Ontario
1871-1941 ('000)

	Urban	Rural	Total	% Urban
1871	356	1,265	1,621	22%
1881	576	1,351	1,927	30
1891	819	1,295	2,114	39
1901	936	1,247	2,182	43
1911	1,328	1,199	2,527	53
1921	1,707	1,227	2,934	58
1931	2,096	1,336	3,432	61
1941	2,339	1,449	3,788	62

Source: DBS, 1951 Census, Table 13-2.

FIGURE 1



SOURCE: K. Buckley, Capital Formation in Canada, 1896-1930, Toronto: McClelland and Stewart, 1974, p. 220-225.

In 1912, the peak year for housing starts, 85,200 units were built, a level of production not surpassed until 1954.[7]

In the thousands of speculative subdivisions popping up across Canada, little attention was paid to street layout, adequacy of servicing standards or quality of construction. Because of rampant speculation, "leapfrogging" of residential development took place. Housing was built further and further from the centre of the city, even though serviced lots closer to the city remained vacant. The only beneficiaries of this process were the land speculators fortunate enough to sell off their lots before the land market collapsed in 1914. Speculation forced up the cost of the residential lots, making housing unaffordable to many working class families. Those who could not afford new housing were forced into overcrowded and often insanitary housing in the older parts of the inner city.

These conditions, as well as forcing real estate interests and property owners to seek public regulatory protection for some aspects of the near totally laissez faire urban land development process, also helped stimulate interest in vaguely defined notions of "town planning." Before an organized town planning movement developed around 1912 when the urban development boom peaked, a number of land use restrictions were beginning to be imposed, which focused on very specific problems. In Ontario, the two most serious problems which attracted widespread attention and concern were the potential for non-residential uses and apartment buildings to creep into residential districts and the problem of inefficient subdivision layout.

Residential districts are the city's most vulnerable land use category. During the boom years the land market itself was not an adequate mechanism to prevent the negative impacts of undesirable uses on property and amenity values. This problem was most critical in the larger cities and it should not be surprising to find that real estate interests in Toronto began seeking public regulatory protection for the better residential districts. Protection was sought for both existing residential areas, in response to increasingly numerous attempts to introduce land uses considered undesirable, and for newly developing residential districts, where the developers wanted to protect property values by guaranteeing the purely residential character of the new district.

The earliest form of zoning related controls implemented in Ontario was concerned with the separation of residential from non-residential land uses. In 1904, at the request of the Toronto City Council, the Ontario Legislature amended the Municipal Act to allow cities to control "the location, erection, and use of buildings for laundries, butcher shops, stores and manufactories."[8] As the pace of development quickened after the turn of the century, cases of stores and factories locating in residential districts became more numerous. The better residential districts immediately adjacent to the central area were especially threatened. A specific case which attracted much attention was the attempt to locate a factory

in the inner city residential district of Moss Park. Local residents, finding that the City did not possess the authority to prevent such a locational decision, were successful in having City Council petition the Ontario Legislature for authority to "enact a Bylaw regulating the location of factories and generally the location of industries and business enterprises of every kind...."[9] Eleven days after the enabling legislation had been given Royal Assent, Toronto City Council passed a bylaw protecting that section of the Moss Park area from non-residential uses. With additional bylaws adopted for other areas of the city, Toronto's system of non-residential land use restrictions, lasting until the first comprehensive zoning bylaw was adopted in 1954, was thereby initiated. More and more of the city was gradually covered by these restrictions, usually at the request of local residents or the developers of a new district, until by 1954 they applied to most of the city, with the exception of working class residential areas adjacent to industrial districts.

As the pace of urban development continued at an unprecedented rate, and as the number of immigrants flooding into cities increased, a new form of threat to residential districts was identified: the apartment building, generally occupied by immigrant workers. The non-residential restrictions allowed by the 1904 amendments to the Municipal Act did not address the problem of protecting better residential areas from apartment buildings; these were, after all, a residential use and could also afford to pay a higher land price for residential sites. During the real estate boom years prior to the first World War, increasing numbers of apartment buildings were being built in Toronto. In 1905 there were only four apartment buildings in the city, but by 1911 the number increased to 68 and by 1913, 131.[10]

As a result of another lobbying effort by real estate interests and property owners, the City once again successfully petitioned the Ontario Government for enabling legislation. This additional form of restriction on property rights was resisted by many members of the Provincial Legislature, most of whom were from outside Toronto and had no direct experience which would lead them to see apartment buildings as such a negative factor requiring further interference with the rights of private property. The enabling legislation adopted in 1912, therefore, was limited to cities with populations over 100,000, which, at that time, meant only Toronto. The amendment to the Municipal Act gave Toronto authority to "prohibit, regulate and control the location on certain streets to be named in the by-law of apartment or tenement houses."[11] The Act defined an apartment or tenement as any building with three or more separate units and applied not only to new construction but also to the conversion of any existing house into three or more units. Toronto City Council moved quickly in implementing this new authority. On May 13, 1912 the Council approved a bylaw applying the restrictions on location of apartment buildings to many of the city's residential districts.

It is in this piecemeal fashion that very focused forms of land use restrictions were gradually adopted by the Ontario Legislature and implemented as needed by Ontario's municipalities. General authority for municipal adoption and implementation of comprehensive zoning bylaws was not granted by the Provincial Legislature until the mid-1940s, much later than most other jurisdictions in North America. The piecemeal zoning-related restrictions, however, were continually added to the Municipal Act which allowed municipalities to regulate very specific types of locational decisions. Interference with property values and development rights was, therefore, kept to a minimum.

3. THE 1912 CITY AND SUBURBS PLANS ACT

Zoning restrictions are simple extensions of the municipal authority to control nuisances. They are negative forms of intervention; that is, they can prevent certain undesirable things from occurring within the dynamics of the urban land market. They cannot implement changes.

Ontario's first legislation which provided for a positive form of public regulation over urban development was the 1912 City and Suburbs Plans Act.[12] It was a brief piece of legislation of only two pages, dealing with the problem of controlling the basic physical design features of subdivisions in and around larger cities. The major purpose of the act was to grant a public body the right to review and coordinate street layouts and development patterns when new land was opened up for development. This problem of subdivision coordination was relevant not only to land within a municipality's boundaries, but to land adjacent to municipal boundaries.

This concern arose largely out of very practical financial considerations. The municipality was obliged to provide the basic municipal services to new subdivisions and it was the practice at the time to annex newly developed land adjacent to the municipality. During a period when a great deal of land was being subdivided and developed a growing financial burden was being placed on municipalities. Promoters of subdivision control legislation saw it as a practical and reasonable extension of public intervention in land development because it helped rationalize public expenditures on infrastructure. It was resisted by those real estate interests engaged in suburban land development but, as the real estate boom peaked in 1912, municipal officials concerned about inefficient street layouts and the huge cost of servicing the scattered and often uncoordinated subdivisions, finally convinced the Ontario Legislature to adopt the province's first subdivision control legislation.

The 1912 Act required anyone subdividing land within a five mile radius of a city with a population of 50,000 or more, to submit the plan of subdivision to the Ontario Railway and Municipal Board. The ORMB had the authority to make any changes it felt necessary with regard to 1) the number and width of streets, 2) the direction and location of the streets within the subdivision, and 3) the size and form of the lots. In addition to reviewing the layout of the subdivision itself, the ORMB was also required to determine whether the proposed subdivision conformed with any existing street plan for the city, and, in the absence of any plan, to determine if the subdivision's layout was in general conformity with the layout of the surrounding district. When a plan was submitted to the ORMB, the Board was required to inform the relevant municipality which then had three weeks to file

any official objections.

The municipal role in the process involved the preparation of street layouts for arterial roads and the preparation or at least advocacy of certain desirable suburban development patterns. By allocating review authority to the ORMB, the Province was once again placing a check on a form of municipal authority which it thought could easily be abused or mishandled. Since the ORMB was appointed by the provincial government, its decisions reflected general government policy. In addition, the extension of the subdivision review authority over adjacent areas outside municipal boundaries required some administrative method of allocating jurisdiction; provincial maintenance of authority avoided possible conflicts between municipalities.

Today this type of subdivision control measure seems simple enough. But since it was the first direct intervention in the private land development process it was undertaken very cautiously. The allocation of the authority to a provincial agency, the ORMB, is only one example of this caution. Not only did it take at least three years of lobbying to have the City and Suburbs Plans Act adopted, but it was also purposely limited to cities with population of 50,000 or more. In 1912, this meant Toronto, Ottawa and Hamilton. In the first typed draft of the 1912 Act, both the size of the urban zone and the size of the city to which the act would apply were left blank, indicating that these two basic points were still being debated within the government. Eventually a "five" was penned in the original bill for the number of miles around the city which would make up the "urban zone" and "50,000" was penned in for the minimum size of city to which the act would apply.[13]

3A. Origins of the Provisions in the 1912 Act

The evolution of the provisions of the City and Suburbs Plans Act is rather interesting because it came about before a well organized town planning movement had developed in Canada and because it was not a direct copy of planning legislation from any other jurisdiction. Both New Brunswick and Nova Scotia adopted planning acts in 1912, but these were virtual copies of the 1909 British planning legislation, as was the Alberta Town Planning Act adopted in 1913.[14] Unlike the Ontario legislation, none of these other planning acts was ever implemented. The difference was that the Ontario legislation, like the 1904 and 1912 residential restrictions in the Municipal Act, addressed a very focused and immediate problem. Because of the ruthless subdivision of land at the peak of the boom, the Ontario legislation had the support of business and municipal leaders in the larger cities who could justify the interference with private development rights on the grounds of the general public good. The middle class professionals who were dedicated advocates of comprehensive land use planning were,

therefore, disappointed with the City and Suburbs Plans Act. They criticized it as a very limited and overly cautious step in the right direction. The government indeed had every intention of being cautious and adopted the act only after three years of increasing lobbying effort which paralleled the increase in the pace of the real estate boom and the number of speculative subdivisions being created.

Ontario's subdivision control legislation was, therefore, a pragmatic reaction to very specific conditions prevailing in the larger cities at that time; the government was not making any commitment to land use planning in general. Only specific legislation aimed at identifiable problems was enacted. Similar conditions in other parts of North America led to very similar legislation. In 1909 the state of Wisconsin was the first to give city councils control over subdivision of lands within one and a half miles of the city boundaries. Michigan adopted similar legislation which established the limit at two miles and in 1910 Ohio and Pennsylvania's subdivision legislation established the limit at three miles.[15] By the 1920's over half the states permitted municipalities to regulate some aspects of subdivisions adjacent to their boundaries. The U.S. Department of Commerce's Standard City Planning Enabling Act endorsed this principle: "Subdivision control should be exercised both within a municipality and for a sufficient distance outside, to insure stability of development and a reasonable expansion of utility services."[16]

Most provinces in Canada also adopted some form of subdivision regulations during the pre-WW I real estate boom. In 1911, for example, Saskatchewan amended its Public Works Act giving the Department of Public Works the right to control and regulate "all matters pertaining to the subdivision of land into lots or blocks" and to establish provincial subdivision regulations.[17] Within three months of adopting the legislation, provincial subdivision regulations were prepared and brought into force. In 1912, the Alberta government prepared and implemented two sets of official subdivision regulations, one requiring all subdivisions over 25 lots to be approved by the Public Utilities Commission, and the other prescribing minimum standards of subdivision design -- lot size, street width, dedication of land for public purposes, block size, etc.[18]

In Ontario, the City of Toronto was the first, in 1910, to request broader authority in land development issues. Urban conditions were changing so rapidly that the City wanted a great deal more authority in all aspects of municipal affairs. One Torontonian, for example, wrote that:

> the laws which govern the powers of the various municipal bodies of Ontario are mainly those of the old Municipal Act.... /T/he power of the Cities and Towns is still unduly limited, hampering their dealings with local affairs in many ways and compelling them every year to apply to the legislature for permission to do many things which ought to be theirs to do by right.[19]

This familiar complaint about municipal authority in Ontario was not new and has continued to the present time. By 1910 one of the more immediate needs for additional municipal authority related to subdivisions. Specifically,

> the right to lay out any necessary street extensions and also to compel property owners wishing to subdivide their land to lay out streets and survey the lots in accordance only with plans to be prepared by, or subject to the approval of, the Council or their Engineer.[20]

Because there was no precedent in Ontario, the City's request "was refused as being a dangerous invasion of the rights of private property."[21] The defence used in 1910 on behalf of planning intervention in private development has since become a familiar and often used argument, and is worth quoting at length:

> When the City of Toronto asked for this power /subdivision control/ it was refused as being a dangerous invasion of the rights of private property. Now nothing could be more untrue. In the first place, land thus treated as private property, differs in many important respects from all the other species of property. For instance the house erected on land owes its value entirely to the human labour expended in assembling the material and constructing the edifice. Not so the land. It owes its value entirely to the presence of the people in the neighbourhood. If the number of people doubles it will not make the house of any more value, but it will certainly increase the value of the land. Now as long as this value is allowed to be retained by the private owner, it is but just that the municipality which creates this value should at least have the control of the plotting of the land into lots when the owner seeks to realize for his own benefit the value the community bestows on his land.[22]

The principle behind this form of intervention in urban development had yet to be established in the eyes of the Ontario Government and the Legislature.

In 1911 another attempt was made to have subdivision control legislation enacted. A bill was introduced as an amendment to the Land Registry Act which would have allowed municipalities to review plans of subdivision for land within five miles of the boundaries of a city. A city council would be able to object to a plan on the following two grounds:

a) That the location, direction and width of any street or the size and shape of any lot shown upon the plan are objectionable in view of the probable extension of the limits of the city and the desirability of securing adequate and connected thoroughfares and highways, and

b) Generally grounds connected with the subject of city planning having regard to the growth of the city, convenience of the inhabitants and the due and convenient operation of services therein.[23]

The Ontario Railway and Municipal Board would then pass judgement on the objections and could, if it wished, order that the plan be modified.[24] This act was never adopted, though it received a much more sympathetic consideration than in 1910. Ontario's Provincial Secretary, W.J. Hanna, who was the minister responsible for municipal affairs, stated his opinion that "there was something in

it" but that he would like to see the act applied to Toronto, not to other cities.[25] The proposed bill did have a great deal of support, as a Toronto M.D., Helen MacMurchy, who was interested in public health, noted:

> Dr. J.W.S. McCullough, the new Chief Health Officer for the Province, an able, energetic and progressive official, is well known to be in active sympathy with the demand for legislation on a subject so closely and fundamentally connected with Public Health, as the Housing and Town Planning question is. The Toronto Civic Guild...may be counted on to a man to support the movement for legislation. In the Council, Mayor Geary is strongly in favour of it, and has taken many opportunities to say so and help in other ways.... Sir Edmund Walker, of the Canadian Bank of Commerce, believes in this movement. Indeed, it would be difficult to find a thoughtful man or woman who does not.[26]

As the land boom continued the lobbying effort expanded and gradually the government's initial resistance faded away.

In the 1912 session of the Legislature, in fact, two versions of a subdivision control act were introduced. The bills were similar and both were introduced by members of the ruling Conservative Party. The one which was adopted was introduced by James A. Ellis, M.P.P. for Ottawa West. Ellis was very much involved in urban issues and was familiar with the need for subdivision control legislation. Before being elected to the Legislature in 1911, he had been an Alderman on Ottawa's City Council (1901-1911). He had also served a term as president of the Ontario Municipal Association (1906-1907) and was one of the leaders in the move to establish the Ottawa Municipal Electric Plant in 1905.[27] The other subdivision control bill was introduced by a Toronto M.P.P., William D. MacPherson, a lawyer with no direct experience in municipal affairs. It is likely that he introduced it on behalf of municipal interests in Toronto.[28]

Both bills were referred to the Municipal Committee of the Legislature in March and on April 8 the Ellis bill was finally approved, since it contained the main provisions of MacPherson's version. It appears that the only controversial issue was whether or not plans of subdivision should be submitted to the Ontario Railway and Municipal Board or simply to the local city council. Advocates of the subdivision control legislation were split on this issue because, while they wanted greater municipal autonomy, they realized that few municipalities were efficient in handling routine administrative matters, let alone a new type of subdivision control regulation. The Ellis version, referring plans to the ORMB, finally won out.[29]

3B. Critical Reactions to the 1912 Act

The City and Suburbs Plans Act was well received by the more practical-minded business elite in the cities it applied to. Unlike the advocates of comprehensive town planning, they were satisfied with the act's limited scope: it was focused on the problem at hand and nothing else. For example, an editorial in The Canadian Municipal Journal noted that the act

> is a great advance in municipal planning and its provisions will prevent the unreasonable plans which real estate speculators have been in the habit of providing outside city limits, without the slightest reference to the plan adjoining.[30]

Harry Bragg, editor of The Canadian Municipal Journal, stated that it was absurd to simply allow streets and lots to be developed around existing cities without any reference to adjacent streets and patterns of development. "It is quite time," he continued,

> that the private landowner should be made to realize that while he may act as he likes with his land so long as it is his, when he cuts it up for subdivision, and asks the municipality to take over the streets which are necessary to make his lots saleable, those streets should be planned so as to meet the wishes of the Municipality which has to take care of them.[31]

Bragg was optimistic about the impact the Act would have. Thanks to the act, he wrote, "such over-riding of public rights by private whims is now stopped" and "Ontario is to be congratulated upon leading the way in Town Planning Legislation."[32]

The Canadian Manufacturers' Association also expressed their satisfaction with the Act, hoping that its provisions could be expanded to cover the entire province, not just the three largest cities. An editorial on town planning in Industrial Canada referred to the Ontario act and related legislation in other provinces recommending that "manufacturers should urge municipal governments to take advantage of all town planning legislation in existence in order to prevent avaricious speculators from extorting unjust prices, in sale or lease, from their employees."[33] It endorsed the Ontario act but urged manufacturers in smaller Ontario cities to "use their influence to direct proper civic development and to prevent crooked streets, evil transportation franchises, and all the horrors of slums." It argued that prevention of such evils through planning legislation was much better than trying to cure them after the fact.[34]

The advocates of more comprehensive planning, however, were less than happy with the 1912 Act. Thomas Adams, who arrived in Canada in October 1914 to take up his duties as the Town Planning Advisor to the Commission of Conservation, did not even consider the City and Suburbs Plans Act to be planning legislation.[35] In a 1915 report summarizing planning activity in Canada, Adams stated that "No town planning act has been passed" in Ontario, but that "certain

powers are given to the Municipal and Railway Board under the 'City and Suburbs Plan Act' to supervise the subdivision of land within five miles of a city having a population of not less than 50,000 inhabitants." Adams added that the Act "is of comparatively small value in securing the proper planning of even the few cities to which it applies."[36]

Dr. Charles A. Hodgetts, the chairman of the Commission of Conservation's Public Health Committee, was also disappointed with the 1912 Act. At the 1913 annual meeting of the Commission of Conservation, Hodgetts noted that since the Act only applied to cities over 50,000, it "can be considered only as a step toward the passing of a general town-planning act."[37] He pointed out that the damage was already done during the period when a village grew into a city of 50,000 and that the Act was therefore of little value. What was needed, Hodgetts added, was "a town-planning act which is operative as soon as a town site is fixed upon, such an act to be administered along the same lines as the work of the Local Government Board of Great Britain, where the work is taken by the health authorities."[38] In 1914, at the National Conference on City Planning held in Toronto, Hodgetts again attacked the limited scope of the Act, stating that

> It does seem strange that the legislature should have deemed it proper only to pass an act on town planning relating to towns which have reached the size of 50,000. They allow the villages and towns in the Province to commit all the faults and to begin all the evil conditions which have been observed in Germany, France, Great Britain and the United States, pile them one on the top of the other, and then they say after these towns have reached the population of 50,000 they may turn back and undo all these costly mistakes. It is high time that this Province should get to work and pass a bill worthy of the Province... and then we would not see the city of Toronto repeating the mistakes which will make its outlines a hideous blunder on our map.[39]

The Ontario Municipal Association was also not happy with the limited application of the Act. At their 1915 annual meeting, held in the Toronto City Hall, delegates passed a resolution on "Town Planning" which stated: "That section 2 of The Cities and Suburban Plans Act /sic/ be amended by striking out the words in the fourth and fifth line, 'Of the city having a population of not less than 50,000,' and substituting therefor 'of any city'."[40]

The different assessments of the 1912 Act were both presented at the 1912 National City Planning Conference held in Boston just a few weeks after the City and Suburbs Plans Act was adopted. The Mayor of Ottawa criticized the Act and Ontario's entire approach to municipal planning authority.

> I have been preaching a city planning doctrine for some years in our country, that local municipalities should be given by the state or province an unlimited amount, almost, of home rule; that is to say, that a local municipality...should be given the power to do its own business and to solve its own problems in its own way. I am one of those who believe in trusting the people, who know the conditions, to solve the local problems.[41]

J.C. Forman, on the other hand, the Assessment Commissioner of Toronto, in an address on "The City Planning Powers of Toronto," spoke very favourably of the 1912 Act, almost bragging to the other delegates that Ontario had adopted such significant subdivision control regulation.

> It may be interesting to know just what city planning statutory powers the city of Toronto possesses. Just this year the Ontario legislature passed an act which gives the Ontario Railway and Municipal Board power to pass on all plans which assume to lay out vacant blocks of land situated within our present municipal limits. It goes even further and provides that the plans of all outlying lands shall conform to a general plan to be prepared by the city which may cover the territory five miles in any direction outside the city limits. No plan may be registered nor any lots sold therefrom until the plan has been approved by the said Board. This act came into force on the 4th of May.[42]

3C. Toronto's Implementation of the 1912 Act

A review of the City of Toronto's use of the Act indicates that, in spite of the criticism, its provisions were implemented and had an impact on development patterns in new subdivisions. Upon passage of the Act, a City Council resolution was adopted directing the Assessment Commissioner, who was responsible for land surveying, to prepare a plan for the five mile zone around the city. This was referred to the Committee on Works for consideration.[43] The Committee decided that detailed maps of the area were first required and a motion providing an interim appropriation of $5,000 "to defray the cost of the preparation of a topographical survey of the suburbs, in order to lay out definite roads and diagonal street" was adopted by Council by a 17 to 1 vote during June.[44]

Until that time, the City Surveyor's office had been concerned solely with the many legal surveys required in connection with the work of the Assessment Department. As a result of the above motion, a town planning function was added to the duties of the surveyor and over the next several years extensive topographical surveys of the area around the City were completed. According to Tracy D. LeMay, the City Surveyor, "this formed the basis of a tentative street plan of large underdeveloped suburban acreages that has resulted at least in an orderly arrangement of highways in the newly developed areas surrounding the City."[45]

As a result of the 1912 City and Suburbs Plans Act, the beginning of a planning function was institutionalized within the civic bureaucracy. Since all subdivision plans within the City or within its five mile "urban zone" submitted to the ORMB were also submitted to the City for comments, the City had to establish a mechanism for response. Thus, from 1912 until 1929, when the City of Toronto Planning Department was established, the Surveys Branch of the

Assessment Department had a permanent town planning division under the guidance of Tracy D. LeMay. The planning activity received full support from the Commissioner of Assessments, James C. Forman, although financial support from Council decreased once rapid urban development decreased. During 1912, the Assessment Commissioner reported to Council that his Department had reviewed 129 plans, and that "in many cases alterations had to be made to the plans before they could be filed, in order to lay out additional streets, round corners, etc."[46] In addition to reviewing subdivision plans, the City began a major project of drawing up detailed topographical maps of the area within its boundaries and its urban zone. On these maps, major roads and infrastructure were plotted as a guide to reviewing proposed plans of subdivision. As the Commissioner pointed out in his 1913 report, progress was being made on "the laying out of Diagonal Roads, and widening such thoroughfares from a transportation standpoint" and that detailed surveys were being made "of the blocks created by the main roads."[47] In addition, LeMay pointed out that:

> The work of drafting the most suitable sub-divisions for each individual block, having due regard to plans and roads already registered, is being pushed forward as quickly as possible, so that, in the event of activity among sub-dividers in the spring, the City may be in a position to state exactly what its views are with regard to a new plan in any particular district, and so that the sub-divider may be able to see, before acquiring any land for subdivision purposes, exactly what area of that land will be required by the City for developing purposes.[48]

In late 1913, when the Toronto Civic Survey Committee brought staff of the New York Bureau of Municipal Research to Toronto to assess the operations of the major municipal departments, Treasury, Assessment, Works, Fire and Property,[49] the subdivision regulation activities of the Assessment Department received favourable comment: "City Planning: Good Results Already Obtained."

> ...the City of Toronto is to be congratulated upon the results obtained in carrying out the general grant of power given by the "city and suburbs plans act" of 1912. With a very limited appropriation for this, and a comparatively short time of operation, the results are excellent and worthy of continued support in the future.[50]

The authors of the report advocated expanded city planning authority for Toronto: "It is to be hoped that future legislation will define more clearly the powers of the city government for constructive city planning within the present city limits and for additions already plotted."[51] The report ended the section on planning by advocating that a specific city planning budgetary allocation be made each year: "Due to the fact that the ultimate results of city planning work can never be fully appreciated until many years after the actual work has been completed, it is essential that something be done either through a very positive public opinion or mandatory appropriation acts to insure the continuation of this work."[52]

By 1915 the City completed surveys of some 40,000 acres of developable land

within the City boundaries. But the remaining 60,000 acres between the City boundaries and the five mile limit, that is, the urban zone beyond the City boundaries, still had not been surveyed.[53] However, support from City Council to finance the surveys was no longer forthcoming, and it was not until the late 1920's that the rest of Toronto's planning area was surveyed. The Annual Reports of the Assessment Commissioner occasionally contained unheeded pleas extolling the benefits of proper town planning. For example, in asking for funds for a complete survey of the lands within Toronto's urban zone, the Commissioner argued that:

> Attention should be given to this matter during the next few years, the expense incurred being insignificant compared with the far-reaching benefits that must accrue from the growth of the City under proper supervision and in accordance with a preconceived plan.[54]

But by 1917, when the City and Suburbs Plans Act was replaced with a new planning act, little subdivision activity was taking place and even less support was forthcoming from City Council to finance any detailed surveys.

4. THE 1917 PLANNING AND DEVELOPMENT ACT

The end of the real estate boom did not result in an end to the town planning movement. In fact, in spite of the slow rate of urban growth and the start of World War I, it continued to grow for two basic reasons. One was the successful establishment of the Town Planning Branch of the Commission of Conservation with Thomas Adams as its director. As Town Planning Advisor to the Commission between 1914 and 1921, Adams was a tireless and enthusiastic promoter of planning legislation. The second reason was the decrease in the production of housing units following the collapse of the real estate boom and the start of World War I. The housing problem, which was quite serious even when unprecedented numbers of units were being built during the boom years, became worse during the war, when very few new units were built. To the advocates of town planning, who promoted planning in part as an environmental "solution" to the problems of housing and social unrest, these conditions only fueled their own enthusiasm for the benefits town planning would bring -- if provinces would adopt good planning acts enabling municipalities to implement the types of land use planning reforms they felt were necessary.

As we shall see in the case of the adoption of a new planning act in Ontario in 1917, this was to be a long and difficult process. Outside of the enthusiastic circle of planning advocates, there was very little active interest in planning; there were simply too many other pressing problems to be looked after. The institutionalization of a broad land use planning function in municipal and provincial government, though generally seen as being theoretically sound and practical, was viewed by the provincial government as simply too much of a change with too many unknown implications.

4A. The Commission of Conservation's Draft Planning Act

Due to the lobbying and organizational abilities of Thomas Adams and the few other leaders of the town planning movement, three provinces adopted planning acts between 1914 and the early 1920's. However, none of these came close in content to the model town planning act Adams had drafted in 1915. Of these three planning acts (Manitoba, 1916; Saskatchewan and Ontario, 1917), Ontario's was the weakest. It was the furthest from what Adams was seeking yet it was this 1917 Planning and Development Act which would remain on the statute books for almost thirty years, until replaced by the 1946 Planning Act.

The Act drawn up by Adams for Canada was a very thorough planning act.[55]

Some of the provisions still have not been implemented today. As already pointed out, there were very few statutes on Ontario's books which intervened significantly in the building and land development process. The act proposed by the Commission of Conservation and supported by the enthusiastic group of planning advocates, would have meant a comprehensive reorganization of municipal legislation and creation of new provincial and municipal planning agencies.

Adams' proposed act started out by assuming the existence of a provincial department of municipal affairs, which in Ontario in 1916 was a very large assumption. Only after a great deal of pressure did the Ontario Government establish a Bureau of Municipal Affairs and not until 1936 was a full Department of Municipal Affairs created. For Adams a strong central authority, similar to the Local Government Board in England, was seen as absolutely necessary before effective town planning at the local level could ever become a reality. Only a central authority could encourage, advise and, if necessary, force local authorities to carry out rational planning activities.

According to the model planning act the minister of the department of municipal affairs would be required to appoint a competent "town planning comptroller" -- someone capable of serving as the chief executive officer in charge of planning within the province. Each local jurisdiction would then be required to appoint a town planning board, which would hire an expert to serve as the executive officer in charge of planning for that jurisdiction and to be responsible to the planning board. This "town planning surveyor" was also to be protected from arbitrary removal — an attempt to shield him from politics; he could only be removed, or his salary decreased, by a unanimous vote of the local planning board. If a locality did not establish a planning board or hire an expert, the provincial planning comptroller would be required to do so for the locality. These were to be mandatory requirements -- not options.

The draft act contained major sections on regulation of all new development, the preparation of planning bylaws and general plans, the purchase and expropriation of land and, finally, very detailed provision of authority to the province to enforce all sections of the act in case a locality did not do so. The section containing subdivision controls was intended to regulate all new development, not just plans of subdivision: "...it shall not be lawful to reserve, lay out, grant or convey any street, road or public right of way, nor to sub-divide or sell as lots, any property, tract of land or area, unless in accordance with plans, sections and particulars submitted and approved by the Local Board...." The act paid particular attention to the laying out of streets.

Each locality would be required to prepare, within three years of passage of the act, a set of "town planning bylaws." These bylaws were to govern all new development and were to include: establishing building lines (i.e., setbacks) on

existing and proposed roads; reservation of land for future main thoroughfares; limiting the number of residential units per acre and the provision of reasonable ventilation and amenities; establishing zones within which the percentage of the lot built upon would be limited "for the purpose of securing amenity or proper hygenic conditions"; establishing a full zoning bylaw "prescribing certain areas which are likely to be used for building purposes, for use for dwelling houses, apartment houses, factories, warehouses, shops or stores, or other purposes and the height or general character of buildings to be erected or reconstructed"; prohibiting noxious trades or the building of structures with inadequate sanitary arrangements; and regulating the width of streets, with each type of street having a specified minimum and maximum allowance.

These bylaws were to be the backbone of effective town planning in each community and were to take precedence over any other bylaws, rules or regulations already in effect. One of the jobs of the provincial town planning comptroller would be to establish a model set of planning bylaws for use by localities, and of course, if no planning bylaws were adopted within the prescribed three years, the province itself would be required to impose bylaws on the local jurisdiction.

The act also distinguished between planning bylaws and town planning "schemes", more detailed plans for specific parts of a municipality. A scheme would have to conform to the general bylaws and would provide more detailed regulation of new development. The act stated that the object of a scheme would be to secure "proper sanitary and hygenic conditions, amenity, and convenience, including suitable provision for traffic, in connection with the laying out of streets and use of lands included therein, and of neighbouring lands for building or other purposes." As with planning bylaws, a planning scheme would also have to be approved by the department of municipal affairs.

In addition to those activities to be regulated by the planning bylaws, another 19 areas of concern were specified in the act as examples of activities for planning schemes. It was not a mandatory list. Included were the full range of services which are necessary to make any city or town an efficient and healthy place to live and work. Some examples were: streets and tramways; buildings and structures; public and private open spaces; drainage and sewage disposal; lighting; water supply; authority to demolish and remove buildings; and provision for recouping the unearned increment in land values, that is, "Charging against land the value of which is increased by the operation of a town-planning scheme the sum required to be paid in respect of that increase."[56] The list was simply a long shopping list of items important to the efficient municipal administration of urban development. The last point is the most interesting. It was a fairly common recommendation of some planning advocates that the public tax away any unearned increase in the value of land if that increase was the result of public

activity or investment. The draft planning act would permit the local planning board "to recover from any person whose property is so increased in value one-half of the amount of the increase."[57] This was seen as one realistic way of paying for public improvements and not as a violation of the rights of private property. This same provision was in the British 1909 town planning act.

4B. Ontario's Rejection of the Draft Planning Act in 1916

In January, 1916, Adams sent a copy of this draft Act to the Ontario Government. The Commission of Conservation had published it in booklet form and in legal format. Blank spaces were left for the name of the province and the date of adoption. The copy sent to Ontario officials was annotated by Adams, deleting and/or changing sections to accommodate Ontario's governmental structure and its related legislation. Having prepared the model planning act, Adams then began an intensive lobbying effort on behalf of it, not only in Ontario but across the country.

As part of the effort to build strong public support for planning, Adams helped organise a national Civic Improvement League. A preliminary conference was held in Ottawa in November, 1915, attended by representatives from about twenty municipal reform organizations from around the country.[58] On January 20, 1916 about two hundred delegates attended the first general conference of the League, held in a committee room of the House of Commons in Ottawa. Eight of the nine provinces were represented. Among the resolutions adopted at the Conference was one on town planning:

> That the league approves of the steps being taken by the Commission of Conservation to urge provincial governments to pass town planning acts as drafted by the officers of the commission, especially in view of the necessity for securing greater economy in connection with the development of land, greater convenience in the layout of streets, and preservation of natural features.[59]

One of the speakers at the Conference was W.J. Hanna, Provincial Secretary of Ontario. In his address on "Civic Problems in Ontario", Hanna stated that he had seen the draft planning act prepared by the Commission of Conservation and found it to be "an excellent Act", although he added that, if adopted in Ontario, it would require some alteration to fit into Ontario's municipal laws "unless we wish to wipe out a great deal of the long established municipal laws of Ontario."[60] While he did not promise that his government would adopt a town planning act, he did agree that planning would be very beneficial to towns and cities.

> Many towns, I say, would be thousands of dollars ahead if at the outset proper streets, proper parks, proper sewerage, proper water supply had been insisted upon. What a saving that would have effected, instead of permitting one field after another to be tied on without system or

arrangement.[61]

As to how such beneficial planning would be brought about, Hanna said it was only "a matter of educating the public's mind up to the point where...the public will be prepared to make by initial cost what will, in the end, prove a very profitable investment."[62]

Although the Ontario government did not commit itself to adopting planning legislation during the 1916 session of the legislature, municipal reformers were quite hopeful that an act would be adopted. Adams had first sent Hanna a copy of the draft planning act on January 5, 1916, at the start of the legislative session. Municipal officials from across the province, together with various business and professional groups, launched a major lobbying effort in 1915. Adams states in the annual report of the Commission of Conservation that representatives from about 50 towns and cities in Ontario had met in conferences during 1915 and petitioned for town planning enabling legislation.[63] In addition, during 1916, some "40 to 50 municipalities in Ontario have approved the principle and many of them have discussed the details and recommended action to the Provincial Government on the lines recommended by the Commission of Conservation."[64] The Conservation of Life reported in March 1916 that during the previous two years meetings and conferences representing all parts of Ontario had passed unanimous resolutions in favour of town planning legislation.

> In no province in Canada has there been a more emphatic and widespread demand for legislation.... In Ontario the demand has come from representative organizations in all the populated parts, including City Councils and Boards of Trade in every large centre. The Associated Boards of Trade has unanimously adopted a resolution in favour of the draft Act of the Commission of Conservation.[65]

With such widespread support, hopes for legislation were very high during 1916. However, two weeks before the end of the legislative session, planning legislation still had not been introduced. So in March, 1916, Adams began a steady stream of correspondence with the Provincial Secretary and the Premier. During the final sixteen days of the session, Adams wrote at least seven letters -- one almost every other day -- to the government and visited Toronto several times in an effort to have the draft town planning legislation introduced and adopted.[66]

> On March 29, Adams urged Hanna to adopt the draft planning act:
>
> we are receiving increased evidence of the strong demand on the part of public bodies and representative men in Ontario to have town planning powers granted to local authorities during this session of Parliament.

He stated, as an example, that a meeting had been held in Toronto City Hall on March 24, and that a resolution was unanimously passed in favour "of some form of suitable act being placed on the statute books." The meeting included representatives of Toronto City Council, the Bureau of Municipal Research, the Civic Guild and other similar groups. Just one week previously, he added, the

Toronto Board of Trade had passed a similar resolution.

In another letter, on the following day, this time to Premier Hearst, Adams urged the establishment of an official commission to "investigate the question of municipal government and to submit a report to the Provincial Government." He pointed out that in April 1914, a deputation to the Cabinet urged creation of such a commission and that "this suggestion appeared to meet with approval and the only difficulty that arose was in obtaining eligible Commissioners." He said appointment of such a committee was now urgent and the idea was supported at the meeting in Toronto on March 24. Adams added:

> I respectfully submit that the appointment of such a Commission is a matter of urgent importance as a preliminary to any action which the government may contemplate in dealing with the problem of municipal government.

Hearst's reply pointed out that he had promised to create a municipal department in 1915 and that steps in this direction had already been taken. He also explained why the government was moving slowly on the matter:

> Owing in part to my serious illness and to the disturbing element of the war it has not been possible to make complete arrangements for the Department although some progress has been made. You will understand the difficulty in making progress in a matter of this kind, for not only have we the many problems arising out of the war pressing upon us, but our service in all Departments has been robbed of many of its best men....

As to the idea of a Commission, names of potential commissioners had still not been received and "I understand that the deputation was to submit names for consideration." In any case, a commission on municipal affairs was never established and the matter was not brought up again in any correspondence or by other reform groups. Pressure for the creation of a municipal department did continue and in 1917 the Ontario Bureau of Municipal Affairs was created.

Adams again wrote Hearst on the following day, April 1, sending him an amended version of the draft town planning act, hoping that at least the slightly diluted version would be introduced. Adams stated that the revised draft

> has been amended to meet views that have been expressed by representative public men, who desired that the bill should be framed on the least controversial lines. As the proposed measure is entirely permissive I hope it may be possible to deal with it this session.

Realizing that chances of enactment of the bill were becoming very slim as the legislature approached adjournment, Adams hoped that the proposed planning act would at least receive a first reading in order to stimulate discussion, in case of any objection.

On April 5, Adams once again wrote to Hearst, this time a quick hand-written letter from New York City where he was giving evidence on the "heights of buildings" question. He apologized for his "intrusion upon" the Premier a couple of

days earlier. "Had I known that you were to lead the debate in the house I should have refrained from interrupting you." He went on to urge the Premier to introduce the draft planning act in the current session.

> The matter is one of great urgency although it does not appear so and the opinion in support of the bill is practically unanimous.

He then added that he would be in Toronto shortly and "would be glad to have the favour of an interview if the opportunity occurs."

Planning was not a very big issue among the public in general or even among provincial legislators. Aside from the vigorous support from municipal reformers, planning did not attract much enthusiasm from other quarters. While there was no great opposition to town planning during 1916, with the land development business depressed, there was no apparent or immediate need for it in the eyes of people outside the town planning movement.

In any case, during the closing days of the 1916 Legislature, Adams was very persistent. In a letter of April 11 Adams again reminded the Provincial Secretary that: "I am anxious to come to Toronto immediately if there is the slightest prospect of anything being discussed, but I do not wish to waste time when I can do no good." Despite Adams' pressure, the 1916 session of the Ontario legislature ended without any planning legislation being introduced. The session had been concerned with other, more major and pressing problems, including unemployment, civil service reform, Ontario Hydro, prohibition, women's suffrage, the war tax and bilingualism. These issues, not town planning, dominated the headlines and received widespread press coverage.

The fact that no planning act was adopted after such an extensive lobbying effort was certainly a major disappointment for Adams and the others in the planning movement. The section of Conservation of Life, the Commission of Conservation's journal, in which Adams would list the "Progress of Civic Improvement in Canada", contained the following account of Ontario's lack of progress:

> Progress in town planning in Ontario is slow, owing to the absence of suitable legislation, and keen disappointment is felt in many parts of the province that the Government was not able to introduce a Town Planning Bill at the last sitting of the Legislature. There is no province in which there is more urgent need for legislation and none in which public opinion has shown itself so strongly in favour of it. It is hoped that something will be done to meet public demand when Parliament resumes its sittings, but meanwhile several important schemes have to be deferred.[67]

Later that year, in September, Adams wrote to the Provincial Secretary requesting a written statement on town planning from the minister. He wanted a statement to be read at a town planning conference in Hamilton, which the minister had already said he would be unable to attend. Hanna replied that he was in support of "anything which promises more efficient municipal government or

which will facilitate greater land development" and that any such matters will have "the hearty sympathy and co-operation of the Government." As to town planning, Hanna stated:

> The providing of proper streets, proper parks, proper sewerage, proper water supply, etc., from the outset in town planning instead of permitting one field after another to be tied on to our municipal incorporations, without system or arrangement, would mean in some cases a saving of thousands of dollars in money and untold values in the municipal life of the Province and the Dominion. I feel that it is largely a matter of the municipalities joining with the Province and with the Dominion in co-operation to a point where the public will be prepared to make, by way of initial cost, what in the end will prove to be a very profitable investment.[68]

His statement was read at the Southwestern Ontario Town Planning Conference held on October 3 in Hamilton. The conference, attended by municipal officials, city councillors and representatives from local boards of trade, adopted a resolution calling on the province to enact the draft planning act prepared by the Commission of Conservation.[69] The resolution was officially presented to Premier Hearst on February 9, 1917. The delegation of mayors, reeves, aldermen, representatives of boards of trade, and including Thomas Adams, argued in their written brief that town planning enabling legislation "would enable greater convenience to be secured in connection with the development of land at less cost to the taxpayers and to owners of land." They stressed that planning would lead to greater efficiency and economy and would help municipalities "secure better regulations of the use and development of land, so as to promote convenience for traffic, improved conditions for carrying on industries, better sanitary conditions and protection against nuisances and the destruction of natural beauty."[70]

4C. Adoption of the 1917 Planning and Development Act

Finally, in the 1917 session of the Ontario Legislature, the government introduced "An Act Respecting Surveys and Plans of Land in or near Urban Municipalities".[71] The act, known in short as The Planning and Development Act, was not, however, exactly what the reformers had wanted. They were at first pleased that an act had been introduced but were then shocked to see how limited it was.

On March 19 Thomas Adams heard that a planning act had been introduced. He immediately wrote to the Provincial Secretary, now William McPherson, for a copy; upon receiving it, he asked to be kept informed as to when second and third readings would be given, and added that he would "consult with a few of those who have been most active in urging for town planning legislation and after doing so will venture to send you our comments upon the proposed Act." However, the Bill

had already had its second reading and was about to go to the Committee of the Whole House. McPherson sent a telegram to Adams on Saturday, March 24, stating that the Bill was supposed to go to Committee the next Monday. On Sunday Adams wrote a quick letter stating that "the Bill does not meet the demand which has been made for legislation and covers what are perhaps the least important matters" and that so many changes would be required in the Bill that simply making amendments would be fruitless. He added that "it does not appear as if anything is to be gained by our proposing amendments to the measure in its present form. Your advisors do not seem to have comprehended what is required in a planning and development Act and I think that, having regard to our wide experience in the application of similar legislation, we might have been of some service in assisting to frame it had we been permitted to do so." Adams added that he would have been glad to come to Toronto if the Bill only required some amendments to fix it up but, "As it is, perhaps my best course is simply to send a frank expression of our views and express the hope that you may be able to give them some consideration."

He sent McPherson a seven page memo with section-by-section comments on the Bill's inadequacies. On March 26th, McPherson simply replied that "I have carefully perused these suggestions and am keeping them before me for reference should occasion permit." On that same day the Provincial Secretary received a telegram from Gordon Phillips, Secretary of the London Board of Trade and of the London and Western Ontario Municipal Improvement and Land Development Conference. The telegram stated that the Conference, held on December 5, 1916 in London, and composed of municipal representatives from eight western Ontario counties, endorsed the draft town planning act as proposed by Adams and the Commission of Conservation -- not the current Bill before the Legislature. The proposed Bill was "entirely inadequate" and Phillips hoped that "opportunity will be given municipal representatives to point out defects." In his response, McPherson simply stated that he had "carefully noted" the views of the Conference and with reference "to your request for an opportunity for a representative to point out defects, I shall be pleased to receive a memo from you with regard to same without delay."

McPherson received another telegram on the following day (March 27), this time from James J. Mackay, Secretary of the Hamilton Town Planning Commission. Mackay stated that a special meeting of the Hamilton Town Planning Commission had been held to discuss the proposed planning bill. They concluded that "the proposed bill does not adequately provide for the needs of Municipalities" and "that interested bodies be given opportunity to confer with your department before passage of bill."

Gordon Phillip wrote to McPherson again on March 29 stating that "the memorandum which we understand has been sent to you /by Thomas

Adams/...covers the ground very thoroughly and we commend it to your serious consideration." However, the Bill was adopted by the Legislature as first introduced.

As finally adopted, the 1917 Planning and Development Act was relatively brief, containing only 18 sections. It was concerned with only three matters: 1) adoption of general plans by municipalities; 2) subdivision controls; and 3) the establishment of local town planning commissions. The Act did not make planning mandatory nor did it force municipalities to do anything new or different if they did not want to.

The Act gave local councils the authority to adopt a general plan for all or any portion of their jurisdiction and/or for the urban zone surrounding their boundaries. Cities were assigned a five mile urban zone, and towns and villages a three mile zone. The nature of the plan was left vague and general:

> Such plan shall show all existing highways and widening, extension or relocation of the same which may be deemed advisable, and also all proposed highways, parkways, boulevards, parks, play grounds and other public grounds or public improvements, and shall be certified by an Ontario land surveyor.[72]

Its major emphasis was on the rationalization of road patterns, as the above definition of a general plan indicates. Councils could amend their plan but the plan itself and any amendments had to be approved by the Ontario Railway and Municipal Board, which was free to make any changes it thought necessary or proper.

Provision for subdivision control was carried over from the 1912 City and Suburbs Plans Act. The chief difference in the new Act was that the ORMB played a somewhat smaller role, though it still maintained a final veto power over any local decision. Instead of submitting a proposed plan of subdivision to the Board, as under the 1912 Act, all such plans were required to be submitted directly to the local city, town or village. The new Act provided local councils with fairly limited criteria; these were similar to those provided in the 1912 Act, falling into three major categories: 1) the number and width of highways; 2) the size of the lots; and 3) the extent to which the subdivision conformed to any existing general plan for the area or, in the absence of a general plan, the degree to which the subdivision conformed to the general layout of neighbouring land.[73] Under the 1912 Act, it had been the ORMB's responsibility to assess new plans of subdivision and the locality's role had been limited to submitting its comments on the proposed plan to the Board. Under the new Act, the Board became a type of appeals court. If a locality did not take prompt action in reviewing the plan, if a plan fell into two overlapping urban zones whose localities could not agree, or if the plan were rejected by the local council, then an appeal could be made to the ORMB. The Board had complete authority in reviewing a local council decision: "The board in determining such application...may approve or refuse to approve such plan, and

shall have power to order such changes to be made in such plan as to the board may seem necessary and proper."[74] Thus, although the day-to-day administration of subdivision reviews was decentralized, effective control over development patterns remained with the Province through the ORMB. A local council was free only to approve subdivision plans, or to change them with the consent of the subdivider. It could not, by itself, refuse to allow a subdivision.

Finally, the Act gave localities the option of establishing a town planning commission, to consist of the Mayor and six ratepayers selected by city council, to review general plans and subdivisions. Besides being purely optional, the commission's activities were limited to the authority provided in the new Planning Act.

In short, the scope of the 1917 Planning and Development Act was very limited. In providing authority to develop a general plan and to establish a town planning commission the Province was not initiating anything very new or very significant; city councils were already free to establish a town planning commission or compile a general plan, except that they would have no legal authority beyond that already possessed by a municipality. Just how the 1917 Act expanded this authority in any meaningful way is difficult to see. Any plan had to be approved by the ORMB and any town planning commission could only administer those activities relating to subdivisions and general plans outlined in the new Act.

Under the new Act all local jurisdictions, not just cities over 50,000 in population, could review subdivision plans. The ORMB still retained complete control over local decisions, so very little, if any, real power was granted to localities. In addition, the Province itself did not take on any new powers over urban development. In view of all this, one could ask, why bother even passing such an act? The answer lies in the pressure town planning advocates, as part of the general reform movement of the day, placed on the provincial government. The Province finally gave them a planning act but it saw no reason to expand the existing planning authority to any great degree. Thomas Adams and the rest of the planning movement lobbied successfully to have the Province adopt a new planning act but they were unsuccessful in having their more comprehensive approach adopted. Without the massive lobby it is unlikely that any planning act would have been adopted. Adams and the planning movement were, in effect, moving against the tide. The real estate boom was over and urban development issues were not as pressing as they had been just a few years earlier. Canada was engaged in a war effort and numerous domestic policy issues were much more urgent than urban planning.

An interesting aspect of the lobby effort launched by Adams is the virtual absence of key City of Toronto municipal officials. The City of Toronto was very much behind the 1904 and 1912 residential zoning amendments to the Municipal

Act and the 1912 subdivision control legislation. There is no record of City of Toronto officials, such as the Assessment or Works commissioners, or the City Surveyor responsible for planning matters, going out of their way to help promote adoption of the more comprehensive legislation. They appear to have been generally content with the authority they had. Indeed, with the real estate boom over, there was little reason for the city to focus on urban planning as a pressing problem.

Starting with the adoption of the 1912 City and Suburbs Plans Act, the City of Toronto surveyor's staff spent two decades simply laying out a preferred street plan for suburban districts. This was what was defined as "planning." At the 1930 Annual Convention of the Dominion Land Surveyors, for example, Tracy D. LeMay, the City Surveyor, stated that, under the planning legislation adopted since 1912, the city was empowered to draft plans of subdivision for the entire five mile urban zone around the city to which all individual plans of subdivision could be forced to conform. LeMay's reports on this activity always pointed to the cumulative acreage which had been "planned" by his office. At the 1930 convention he noted:

> Under the legislation about 70,000 acres of the general plan have been completed and about 1,200 individual plans, aggregating about 25,000 acres, /have/ been made to conform to it, seventy miles of new 86 foot diagonal roads have been located, of which about 22 miles have been designated. Of 433 miles of main roads designated to be widened, about 90 miles have been provided on plans approved.[75]

It appears that the subdivision approval process administered by LeMay was not very demanding. LeMay stated that "in not more than 2% of the 1,200 plans approved had the owners appealed to the Board /ORMB/." That would mean about 25 appeals in the course of 18 years. He stated that this is "an illustration of the confidence that the developers of land have, generally, in the wisdom of and benefits to be derived from this form of control...."[76] Subdivision control, therefore, appears to have been limited to the supportive municipal role of identifying the best pattern for arterial roads and of trying to impose a network of diagonal arterial roads. It is not surprising that the planning movement considered Ontario to be without adequate enabling legislation for municipal implementation of an urban land use planning function. However, apart from the planning movement itself, there was apparently little demand for the adoption of such a municipal role.

CONCLUSION

The very gradual and limited development of an urban land use planning function of government in Ontario during the first two decades of this century points to the very large gap between the practical needs and problems that the government was willing to address, and the comprehensive approach which the town planning movement was advocating. The Ontario government was willing to permit municipal intervention in the urban land market only in cases where a clearly defined need existed. Such needs evolved from the material conditions of the day and not from the ideas of planning advocates.

When urban development in Ontario's larger cities began taking place at unprecedented rates in the years preceding World War I, the two aspects most vulnerable to abuse by an unrestrained land market -- the better residential districts and the development of new suburban land -- received "protection" from private land market dynamics. Public land use reuglations imposed during this period represent what might be considered useful and practical additions to the operation of the urban land market. Rather than being seen as negative restrictions on the use of private property, they were advocated as positive improvements protecting one's real estate investment in the case of the residential restrictions and preventing the waste of limited municipal financial resources in the case of suburban development.

The town planning movement, however, was advocating more comprehensive public intervention into many aspects of urban development. Many municipal officials and civic leaders undoubtedly agreed that, in theory at least, comprehensive planning measures would be of long-term benefit. However, the active political support for the planning movement's position was simply inadequate.

The cases in which land use regulations were adopted in Ontario were the result of the successful interaction between 1) the macro economic and urban real estate conditions of the day, and 2) the support of a broad spectrum of the influential business elite and municipal officials for new forms of urban land development regulations. These conditions prevailed prior to the first World War. Certain very specific outcomes of the urban development process were identified as problems and, finding no adequate recourse within the private market, the state was called upon to impose specific regulatory solutions.

The more comprehensive approach advocated by the largely middle-class professional planning movement never enjoyed the coincidence of problematic macro economic and urban conditions which would have focused attention on the need for urban planning, nor did the movement ever enjoy the <u>active</u> support of

the local business elite or even of most municipal officials. It owed even its very limited impact to the fact that a national governmental agency, the Commission of Conservation, and a full time organizer, Thomas Adams, tied together the small number of active enthusiasts which comprised the planning "movement." Once the Commission was abolished in 1921, most of the organizational support was also lost.

Finally, this review of the development of land use regulations in Ontario points to the basic failing of the planning movement: it was politically naive. Its protagonists never recognized that the problem they faced was basic to the structure of Canadian society. Public planning of any type is the antithesis of private market capitalism. Either serious material problems or a massive political base, and usually both, are needed before dramatically new forms of public planning are introduced. Public education and appeals to government officials, though necessary, are a totally inadequate strategy for the type of change the planning movement was advocating.

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